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THE LAWYER.

ADDRESS BY JUDGE GEORGE POFFENBARGER AT A RECENT BANQUET
OF THE CABELL COUNTY BAR ASSOCIATION.

*Mr. President, Mr. Toastmaster and Gentlemen of the Cabell
County Bar Association:*

Among the agencies of community progress and development, none is more indispensable than an efficient corps of lawyers. There is scarcely a phase of the industrial, commercial, civic, municipal, social or domestic life in a community into which legal service does not go, in some way or to some extent. Beyond these, are the great state, national and international relations and problems the definition and solution of which, upon rational and just principles, is utterly unattainable otherwise than by processes of reasoning familiar only to the legal mind. The very foundations of Anglo-Saxon institutions, brought to this country by the colonists, were laid by English lawyers and jurists. England's greatest patriot, John Hampden, became thoroughly and unalterably imbued with the fundamental principles of government, the inalienable rights of man, in the historic Inner Temple. It was the legal basis of the oratory of James Otis, John Adams and Patrick Henry that made it exceptional in character and irresistible in power. It was Jefferson's thorough knowledge of law that enabled him so accurately, appealingly and heroically to lay down the propositions for the maintenance of which, against monarchical power, a nation of freemen pledged their lives, their fortunes and their honor. The constitution was formed by Hamilton, Madison, Jefferson and other lawyers of the nation. It was more thoroughly expounded by John Marshall, as Chief Justice, than any other man. Webster and Clay, by their legal eloquence, popularized it as so expounded and fortified it against the impending effort to dissolve the Union. In the hour of the national crisis, the champions in the popular debate extending to every part of the country and beyond its confines, were lawyers, Lincoln and Douglas. It was the host of clear-thinking lawyers in and out of official life, that developed, guided, steadied, conserved, moulded and directed the public sentiment which sustained Lincoln and saved the Union against the shock of civil war. Under

the same all-pervading influence, the seceding states finally resumed their original status in the Union. It was a lawyer, instantly perceiving the distinction between the government and the individual wielding its powers, by legal delegation thereof, who stepped on to the balcony of the New York Custom House when the streets were filled with terrified, horrified and outraged citizens uttering threats and breathing vengeance, and instantly quieted and calmed the excitement with this historic and inspiring declaration: "Clouds and darkness are around him: His pavilion is dark waters and thick clouds; justice and judgment are the establishment of his throne; mercy and truth shall go before his face: Fellow citizens: God reigns and the Government at Washington lives."

The lawyer's work has been a large factor in every step of human progress. No great advance in the science or practical results of government has occurred without his aid. In the struggle for popular government, he has devised the guaranties of freedom. His work found in the constitutions, statutes and judicial precedents constituting general or common law, gives form, effect and political, economic, social and intellectual value to every achievement of arms, every political revolution, every invention and discovery. He has not only devised the means of conserving the fruits of effort, but has also inspired many of the most meritorious reformations recorded in history. In other instances, he has contributed to their success by his superior counsel and guidance. The learning of the profession diffuses itself, by intimate contact with every class of people, throughout the whole populace and constitutes an atmosphere utterly indispensable to commercial, industrial, political, social and intellectual progress and development. By every citizen, from the laborer in the shop or field to the captain of industry, it is absorbed and utilized.

A profession whose influence is so potent and all-prevading is necessarily an honored one. Any member may well affect the spirit of Paul's famous exclamation in the court of King Agrippa. But his chief interest should be found in the utility of the profession and the efficient performance of his part in its great work. As the world advances and new problems in political, social and economic life arise, they afford him opportunities for valuable

service and professional achievements and triumphs similar to those of which his illustrious predecessors availed themselves. It would be an egregious blunder to assume that our duties and responsibilities are lighter, or our opportunities more restricted, than were theirs.

As the immense increase in the volume of commerce has inexorably demanded and obtained a more scientifically adjusted standard of value and more diverse, elastic, and secure media of exchange, for transfers of title, and transportation facilities of almost inconceivable enlargement as to capacity and efficiency, for the corpus of property, the demands upon the law and lawyers, for development, creation and administration have grown and multiplied and must continue to do so. Not less than money and transportation lines, are the law and its administrators instrumentalities of commerce. The lawyer must respond to the demands of progress and new conditions. The inventive genius of the lawyer is quickened, spurred and intensified by the gradual rise to higher levels of development and civilization, just as is that of the engineer, the mechanic, the merchant, the banker, the financier and the statesman. As new uses of property real and personal are devised and adopted, new rights arise which must be legally defined. As the necessity arises for professional, social, industrial, financial and commercial coöperation, the lawyer must be instantly ready to point the way and direct the enterprise. At the same time, he must retain his grip upon the law applicable to old conditions. Human activity is not nomadic. It does not exhaust one field and move to another. For the most part, it remains in its station and there enlarges and diversifies its functions.

Compliance with modern demands upon the profession, in an efficient manner, requires a broad and intimate knowledge of affairs in general. Modern business is comprehensive, systemized, complex and specialized and can be adequately served, in a legal way, only by those who have acquired the habit of comprehensive, exact, discriminative and quick thought. Both private and public business, as well as social life, have certain distinctive and common characteristics. Among them, are magnitude, rapidity, accuracy, system, complexity, diverseness, novelty and intensity.

To some extent, every lawyer necessarily and unconsciously acquires all of these, but, to do his best work and contribute his full measure of service, he must make them a liberal part of his own equipment. They must become to him what they are to men engaged in other callings. He must have the exact and complete knowledge and tact of the trader, the quick and accurate discrimination of the scientist and the philosophical capacity to correlate cause and effect, act and consequence, both retrospectively and prospectively. He must be, now more than ever before, a man of affairs as well as a student and expounder of books. The law is the regulator of human effort and action. Hence, it must adapt itself to the qualities and characteristics of such action. It cannot well do that, unless its ministers have mastered and assimilated them.

Only in this way, can the lawyer contribute what he owes the world and perform the work on which the true estimate of his value must be based. The ancient school of the profession who scorned fees and rewards and worked only for glory were measurably right in their conception of duty. In their work, there was a singleness of purpose to which we are no doubt greatly indebted for many of the most essential elements of our jurisprudence. The hope of individual reward whets and intensifies the intellect, but the man who seeks only the truth and the right has the clearer vision. Reward, therefore, should be regarded as an incident rather than an object of legal service. To allow personal interest to displace the true legal view of relations or destroy the legal habit of thought, is to ripple or discard the most effective and indispensable element of a lawyer's equipment. The largest fortune ever acquired in any avenue of life is not to be compared, in what the German philosophers call cultural value, with the work of Jefferson in the repeal of the law of primogeniture and the fabrication of a just law of descents and distributions, nor with that of John Marshall as the great expounder of the constitution, or even John Sherman as the author of the anti-trust law. Wise and honestly and efficiently administered laws are not only the glory of a nation or people, but likewise the greatest contributors to its wealth, comfort and happiness.

The lawyer's field of usefulness is not limited to the advice and direction of clients and representation of them in litigation. Leg-

islation without legal advice and direction would soon plunge our institutions and individual rights of every kind into hopeless confusion. Judicial administration of the laws without the light afforded by the efforts of counsel and the analytical criticism to which the decisions of the courts are subjected by those who are competent to criticize them intelligently, would fall far below its present standard of usefulness. A disastrous departure from sound principles of government, in legislation or administration, judicial or executive, does not long escape the critical eye of the profession. Its members are sentinels standing guard over the great camp of civilization, against internal and external dangers. They are the consulting engineers and architects in the establishment, remodeling and improvement of states and nations and in the conception, launching and prosecution of enterprises great and small. Their contribution to advancement, local and general, is the sum total of all their achievements, indirect as well as direct.

The immediate future holds tremendous opportunities and threatens corresponding demands and responsibilities. On the termination of the mighty tragedy now in progress in Europe, Asia and Africa, there will be a readjustment of world government, society and economy which will affect us at even this great distance from the scene of conflagration, ruin and carnage. We have already felt the depression of that terrible conflict. We are now drifting on the crest of the impetus it has given to American trade and industry. We are grappling with the difficulties it has thrown in the path of transportation and commerce and endeavoring to find and maintain our rights under international law. Its revelations of the resources of inventive genius and adaptation of both old and new discoveries to new purposes, will accelerate and intensify these influences among us. Its demonstration of the element of efficiency in centralized and irresponsible government will have its influence upon public sentiment in America and every state of the Union. That impression, whatever its form or tendency may be, will be a factor in the solution of our future problems in statecraft and economics, local and national. The diversity and vastness of our natural resources will bring the people of West Virginia into as close and direct contact with these huge influences as those of any other part of the world. Never in all her history, more than now, did the state

stand in need of the best of the thought and mental discipline peculiar to the legal profession. No era in her existence has afforded better opportunities for legal achievement, individual and collective.

That we shall deal with these new problems efficiently, I have no doubt. Whether we will make the most of our opportunities remains to be seen. If we are lacking in anything, it is probably initiation. By design or accident, we have been following and copying, in instances in which we might, perhaps, have led. Our land title system, though excellent, is, in important respects, unique and peculiar. It is of Virginian origin and about the only thing in West Virginia jurisprudence that may be regarded as being distinctly a home product. Our mining laws were imported from Pennsylvania. Our election law was found in Australia. Our Workmen's Compensation Law was born in Germany. Much of our constitution came from Illinois. Many of our statutes are from New York. I make no complaint on this ground, however, for some states have suffered from novelty and innovations. In some instances, the effort to modernize and simplify procedure has resulted in complication and confusion. But there are many desirable modifications that can be made without transgressing the limits of moderate conservatism. In the making of these and provision for future requirements, those who are most capable of determining what they are and how best to make them, should have a large part. While innovations are inevitable and suggestions of new systems must be considered and adopted to the extent of their merits, we must beware of the man who professes ability completely to rewrite all the law upon any subject, so as to produce better results than we get from the accumulated wisdom and experience of centuries.

Rash and experimental alterations should be discouraged and resisted, but we should be more than merely open-minded. Diligent search for easily recognized and undoubted defects, discovery of remedies and courageous application thereof are requisites of healthy and sound growth and development. We should be constant and energetic originators and promoters of meritorious measures of reform and advancement, in so far as the public welfare depends upon wholesome laws and efficient administration.—The Bar (W. Va.).